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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,507	12/08/2000	Hong Wang	4810-56910	2417

7590 01/03/2002

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EXAMINER

COLLINS, CYNTHIA E

ART UNIT

PAPER NUMBER

1638

DATE MAILED: 01/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/733,507	WANG ET AL.
	Examiner Cynthia Collins	Art Unit 1638

-- The MAILING DATE of this communication app ars on th cover sh et with the correspondenc address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 December 2000.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-27 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) \_\_\_\_\_ is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-27 are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_      6)  Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-15, 18, 20-22 and 27, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICK1, and to transgenic plants, classified in class 435, subclass 419, for example.
  - II. Claims 1-15, 18, 20-22 and 24-27, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICK2, to transgenic plants, and to an isolated nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICK2, classified in class 536, subclass 23.6, for example.
  - III. Claims 1-15, 18, 20-22 and 24-27, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN2, to transgenic plants, and to an isolated nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN2, classified in class 800, subclass 290, for example.
  - IV. Claims 1-15, 18, 20-22 and 24-27, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN6, to transgenic plants, and to an isolated nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN6, classified in class 800, subclass 298, for example.

V. Claims 1-15, 18, 20-22 and 24-27, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN7, to transgenic plants, and to an isolated nucleic acid encoding the plant cyclin-dependent kinase inhibitor ICN7, classified in class 435, subclass 468, for example.

VI. Claims 16-17, 19 and 23, drawn to methods of modifying development of a plant by transforming a plant with a nucleic acid encoding an anti-sense coding sequence complementary to the nucleic acid encoding a plant cyclin-dependent kinase inhibitor, and to transgenic plants, classified in class 800, subclass 286, for example.

2. The inventions are distinct, each from the other because of the following reasons:

3. The inventions of Groups I-VI are distinct products. The isolated nucleic acids of Groups II-V are structurally and functionally distinct from each other because each isolated nucleic acid is derived from a different plant cyclin-dependent kinase inhibitor gene, and each can be used in different methods, such as hybridization methods. The transgenic plants of Groups I-V are structurally and functionally distinct from each other because each transgenic plant comprises a different plant cyclin-dependent kinase inhibitor gene, and each can be used in different methods, such as breeding methods. Additionally, the transgenic plants of Group VI are structurally and functionally distinct from the transgenic plants of Groups I-V because the transgenic plants of Groups I-V comprise a plant cyclin-dependent kinase inhibitor gene expressed in a sense orientation such that development is inhibited, whereas the transgenic plants

of Group VI comprise a plant cyclin-dependent kinase inhibitor gene expressed in an antisense orientation such that development is promoted.

4. The inventions of Groups I-VI are distinct methods. The methods of Groups I-V differ from each other in that each requires the use of a different plant cyclin-dependent kinase inhibitor gene. Additionally, the methods of Group VI differ from the methods of Groups I-V because the methods of Groups I-V require the transformation of a plant with a plant cyclin-dependent kinase inhibitor gene expressed in a sense orientation such that development is inhibited, whereas the methods of Group VI require the transformation of a plant with a plant cyclin-dependent kinase inhibitor gene expressed in an antisense orientation such that development is promoted.

5. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the requirement for different areas of search, restriction for examination purposes as indicated is proper.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Remarks***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia Collins whose telephone number is (703) 605-1210. The examiner can normally be reached on Monday-Friday 8:45 AM -5:15 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paula Hutzell can be reached on (703) 308-4310. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and 1 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

CC  
December 28, 2001

ELIZABETH F. MCELWAIN  
PRIMARY EXAMINER  
GROUP 1600

